

REGULATION 21

LIVE BROADCAST

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21.005 General.

1. The board or its designee may waive one or more of the requirements of these regulations, if it makes a written finding that such waiver is consistent with the state policy set forth in NRS 463.0129.

(Adopted: 7/87. Amended: 10/92.)

21.010 "Chairman" defined. As used in this regulation, "chairman" means the chairman of the state gaming control board or his designee.

(Adopted: 7/87.)

21.020 Standards for board authorization. The board shall not authorize a disseminator to enter into an agreement with a track to disseminate a live broadcast to users unless it is established to the board's satisfaction that:

1. The investigative and supervisory time and effort required to maintain effective control over the live broadcast is justified;
2. There exists a comprehensive, effective, government regulatory system governing the track in the jurisdiction where the track is located;
3. Information pertaining to the live broadcast operations at the track will be readily accessible to the board at all times;
4. Proper and adequate administrative and production controls exist at the track to ensure that the interests of the State of Nevada are not unduly jeopardized; and
5. The track and the proposed live broadcast meet such other standards and requirements as these regulations or the chairman may impose.

(Adopted: 7/87.)

21.030 Prohibited activities.

1. Disseminators shall not distribute audio-only, simultaneous transmissions of races run at tracks.

2. Disseminators shall not distribute the audio portion of live broadcasts without the video portion.

3. No disseminator may grant or purport to grant to any user an exclusive right to the use of any live broadcast or any part thereof, and any contractual provision that grants or purports to grant such exclusive right is void.

(Adopted: 7/87.)

21.035 Hearing panel members: qualifications and eligibility.

1. Each member of the panel shall be a citizen of the United States, and a resident of the State of Nevada.

2. A member of the hearing panel may not:

- (a) Represent a disseminator, race book, or nonrestricted gaming establishment approved for a race book, or an affiliate of these entities, in a professional capacity; or
- (b) Hold a disseminator or nonrestricted gaming license; or

(c) Be an employee of a disseminator, a nonrestricted gaming licensee, or any affiliate thereof; or

(d) Have a direct pecuniary interest in a disseminator, a nonrestricted gaming licensee, or any affiliate thereof.

3. It is the intention of the commission that the panel be composed of the most qualified persons available.

(a) One member of the panel must be a certified public accountant licensed by this state or another state of the United States or a public accountant qualified to practice public accounting under the provisions of chapter 628 of NRS, have 5 years of progressively responsible experience in general accounting, and have a comprehensive knowledge of the principles and practices of corporate finance; or such person must possess the qualifications of an expert in the fields of corporate finance, auditing, general finance, gaming or economics.

(b) One member of the panel must either be a lawyer licensed in the State of Nevada and whose practice generally involves business law or administrative law or be an individual, who although not a lawyer, has experience in administrative hearings or administrative law.

(c) One member of the panel must be an individual with 5 years of progressively responsible experience in business or government and with comprehensive knowledge of the principles and practices in the field of regulated industries.

4. Each nonrestricted licensee and each disseminator may submit the names of individuals who in their opinion meet the qualifications for appointment to the panel. Each submission must be in writing and must include a résumé of the proposed panel member. The board or its designee shall consider the qualifications of each proposed panel member but retains its sole and absolute discretion to determine who shall be appointed to the panel.

(Adopted: 7/87. Amended: 10/92.)

21.039 Notices.

1. Within 20 days after the board receives notice from a disseminator of its wish to submit a proposal for the exclusive right to disseminate a live broadcast of a racing meet to users, the board shall give written notice to the disseminator indicating when a written proposal for the exclusive right to disseminate the live broadcast must be submitted to the board.

2. If the board or its designee reviews the submitted proposals and determines that a hearing is necessary, the board shall provide written notice to each disseminator and user indicating that a hearing panel meeting will be conducted wherein the panel will determine which disseminator will be recommended to the board for live broadcast dissemination approval. The notice may include:

(a) A time certain within which each proposal for the exclusive right to disseminate a live broadcast must be submitted;

(b) Instructions regarding the manner in which each proposal should be prepared for submittal; and

(c) Any other information deemed necessary by the chairman.

3. After considering each recommendation of the hearing panel and selecting a disseminator to receive live broadcast dissemination approval, notice of the board's decision must be mailed to each disseminator who submitted a live broadcast proposal for the racing meet under consideration.

4. If the board or its designee reviews the submitted proposals and determines that the selection of a disseminator may be made without a hearing, the board shall give written notice of the determination and selection to each disseminator and user, and shall post such a notice in a conspicuous place in each of the board's offices in Las Vegas and Carson City for inspection by members of the public.

(Adopted: 7/87. Amended: 10/92.)

21.040 Proposals for the exclusive right to disseminate a live broadcast of a racing meet to users. Proposals for the exclusive right to disseminate a live broadcast of a racing meet to users must be made in a manner and using such forms as the chairman may prescribe. The chairman may require each proposal to be distributed to the users. Each proposal must include, in addition to such other information as this regulation may require:

1. Evidence satisfactory to the board that the live broadcast would not be contrary to the laws and regulations of the jurisdictions where the track at which the live broadcast races are to be run is located;

2. A description of the entire racing program, including a schedule of race days and program times;

3. A precise, detailed diagram showing the path of the live broadcast signal from track to race book;

4. Identification of the satellite proposed to be used, and a statement of the level of exclusivity of transponder service available to the disseminator;
 5. A written description of all track and disseminator procedures relating to the live broadcast;
 6. The proposed agreement between the disseminator and users;
 7. On a form to be provided by the chairman, information pertaining to the racing meet under consideration, including but not limited to the percentage rate to be charged users and, if available, the past, present or proposed handle;
 8. A copy of an executed letter of intent between the disseminator and the person who holds the live broadcast track rights ("rightsholder"). If the executed letter of intent is provided by a rightsholder other than the track, then a copy of an executed contract or letter of intent between the track and the rightsholder must also be provided;
 9. If the proposal includes a rate calculated pursuant to subsection 1 or 2 of section 20.030, an explanation setting forth the reasons why the proposed rate should be charged; and
 10. Identification of the proposed transmission vendors contracted to provide encoding, uplinking, decoding, and transponder services for the racing meet.
- (Adopted: 7/87. Amended: 12/88; 10/92.)

21.045 Standards for approval of a proposal to disseminate a live broadcast. The hearing panel shall recommend a proposal and the board, or its designee in those cases where the selection of a disseminator is made without a hearing, shall approve a proposal for the exclusive right to disseminate a live broadcast if:

1. It contains all of the information required by section 21.040;
 2. The proposed rate to be charged to users does not exceed the rate permitted by subsections 1 or 2 of section 20.030 or the rate approved pursuant to subsection 3 of section 20.030;
 3. The terms and conditions of the proposed user agreement are reasonable; and
 4. It provides the live broadcast to users at a cost that is lower than that proposed by any other disseminator. If two or more proposals provide for the same lowest cost, the hearing panel shall choose its recommendation for the exclusive right to disseminate the live broadcast by lot.
- (Adopted: 7/87. Amended: 12/88; 10/92.)

21.046 Reserved, 10/92.

21.047 Withdrawal of authorization and action following withdrawal.

1. The board may order the withdrawal of the authorization of any proposed live broadcast without notice or hearing whenever it has reason to believe the disseminator has violated any regulation of the Nevada gaming commission, or for any cause it deems reasonable. Each disseminator shall be considered to have consented to such authority of the board as a condition of the approval of the live broadcast. The decision of the board is final and is not subject to commission review.

2. Without limiting the discretion of the board, the following may be grounds for withdrawal of authorization:

(a) If, prior to the live broadcast of the first race of the racing meet, the disseminator fails to broadcast and demonstrate for the enforcement division of the board a video signal meeting the requirements of this regulation and using the equipment and following the procedures described in the proposal.

(b) If, in the board's sole discretion, the terms of any agreement submitted with the disseminator's proposal are altered to the economic detriment of a user.

(c) If the board has not received an executed contract for the live broadcast rights from the authorized disseminator 30 days before the racing meet commences.

(d) If the board in its sole discretion determines the authorized disseminator will be unable to execute a contract for these rights.

(e) If the board in its sole discretion determines, following execution of the contract for the live broadcast rights, that the authorized disseminator is economically unable to provide the live broadcast.

3. The following action may be taken following withdrawal of authorization:

(a) If more than one disseminator submitted proposals for a live broadcast and the board acts to withdraw its authorization, the board may then authorize any other disseminator who submitted a proposal to disseminate the live broadcast.

(b) If only one disseminator submitted a proposal for a live broadcast and the board acts to withdraw its authorization, the board may then authorize any other disseminator who is willing to adopt the withdrawn disseminator's proposal and provide the racing meet on those terms to disseminate the live broadcast.

4. Except for any agreement between a disseminator and user, any agreement executed by a disseminator relative to a live broadcast must be deemed to include a provision for its termination upon the board's withdrawal of authorization. Such termination is without prejudice to the track or organization of tracks to enter into an agreement with another disseminator upon the same terms.

(Adopted: 7/87.)

21.050 Documents and information to be submitted following board authorization. Except as may be provided by the chairman, once authorized to disseminate a live broadcast, the disseminator must submit the following documents and information to the board:

1. A copy of any rights contract it executes with the track or racing association within 7 days of execution.

2. The name, address, social security number, birth date, title, job descriptions, sources of compensation, and, if applicable, work card number of each person who is or will be connected directly with the production, transmission, or reception of live broadcasts, or who operates, maintains, services, or otherwise has access in the course of employment to any equipment or device used to produce, transmit, or receive live broadcasts. Without limiting the generality of the foregoing, such persons shall include production technicians, encoder and decoder operators, transmission equipment operators, live broadcast supervisors, and such other persons as the chairman may specify. Disseminators of approved live broadcasts and applicants for such approval shall submit the information required by this subsection not later than 10 days before the racing meet begins and notify the chairman of any change in the information not later than 10 days after the change. The board or its designee may object to the participation of any such person in the production of live broadcasts. Upon objection, the person's association with the live broadcast must be severed immediately pending further proceedings conducted pursuant to NRS 463.335 through 463.337 as though the objection were to the issuance of a work permit.

3. Copies of the executed agreement with each user must be submitted before the racing meet begins. However, if a user is added after the racing meet begins, the disseminator must submit an executed user agreement prior to the user receiving the live broadcast.

4. A report listing the inclusive dates of the meet, number of race days, number of users who contracted for the live broadcast, the effective percentage rate charged to the books and any other information that the chairman may require to be filed, using such forms as the chairman may prescribe. Such report must be filed with the board within 60 days following the completion of the racing meet.

(Adopted: 7/87. Amended: 10/92.)

21.053 Standard revenue and expense classifications.

1. The chairman will from time to time prescribe standard revenue and expense classifications in order to assure consistency, similarity and effective disclosure of financial information.

2. All documents prepared pursuant to Regulations 20.060(3) and 20.070(1)(c) must strictly adhere to these standard revenue and expense classifications.

(Adopted: 7/87. Amended: 10/92.)

21.055 Unsuitable methods of operation. It is an unsuitable method of operation:

1. For a disseminator to submit a proposal to disseminate a live broadcast which includes misrepresentations or omissions.

2. For either disseminators or users to misrepresent any facts during a hearing before the hearing panel or board.

3. For a disseminator to delay the transmission or a user to delay the public showing of a live broadcast for any period of time.

(Adopted: 7/87.)

21.060 Production.

1. For each race, the video portion of every live broadcast must include:

(a) The post parade;

(b) At least twice before the start of the race and for at least 60 seconds each time, the track totalizator board showing the race odds and the time until post at the track;

(c) The race;

(d) At least twice after the end of the race and for at least 60 seconds each time, the track totalizator board showing the official order of finish and the resulting payoffs;

(e) The track totalizator board or a graphics display that accurately reproduces some or all of the information shown on the totalizator board, at all times other required or permitted portions of the program are not shown;

- (f) At all times, the track's name or logo; and
 - (g) At all times, a digital display, as described in subsection 5, of the date and time of day at the track where the live broadcast races are run.
 - 2. For each race, the audio portion of every live broadcast must include:
 - (a) Post time, as defined in Regulation 22.010(6)(a);
 - (b) An announcement of the start of the race; and
 - (c) The call of the race.
 - 3. The audio and video portions of any live broadcast may include:
 - (a) Information identifying the next race, its distance, and track conditions;
 - (b) The names, numbers, post positions, and other information identifying the horses and jockeys or other entrants in the next race;
 - (c) Pre-race preparation activities in the paddock area; and
 - (d) Race replays, but only if the replays are conspicuously identified as such on the video portion of the live broadcast throughout the replay.
 - 4. Neither the audio nor video portion of any live broadcast may include:
 - (a) Paging announcements;
 - (b) Commercials, advertisements, or promotional announcements, except announcements related to a promotion sponsored by the track and available only to patrons of the track; and
 - (c) Touting or similar handicapping information.
 - 5. The digital display referred to in subparagraph (g) of subsection 1 must be generated at the track, broadcast continuously by the disseminator, and displayed continuously by the user. The time must be displayed to the nearest second, conform as closely as possible to the official time used by the track, and, along with the date, be readily visible to the person in the user's employ who controls the closing of wagering for each race.
 - 6. Information and events not specified in this section may not be included in the video or audio portion of any live broadcast without the prior written approval of the chairman, which the chairman shall have absolute discretion to grant or deny.
 - 7. Except as the chairman, in his sole and absolute discretion, may otherwise approve in advance in writing, speakers, television screens, and similar devices used to display the audio and video portions of live broadcasts must be located only within public areas of the premises that contain the user's race book, sports pool, or gambling game at which wagers on live broadcast events are accepted.
- (Adopted: 7/87.)

21.070 Signal transmission, reception, and security.

- 1. Before providing a live broadcast to a user, the disseminator must provide for the encoding of the signals to be transmitted, using such equipment as the chairman may approve in advance, and immediately notify the board of any unencrypted transmission. The disseminator shall install and maintain at each user's premises such equipment as the chairman may approve in advance to decode the signals transmitted to that user. Only the board and the disseminator or its agents shall have access to the encoding and decoding equipment, and the disseminator shall take precautions satisfactory to the chairman to prevent unauthorized access. Security codes shall be changed only as determined by the chairman in his sole discretion or, if required by any regulatory agencies in the jurisdictions where the track is located, only after the disseminator has notified the board. The board must be provided with the new codes directly from the manufacturer or authorized distributor of the encoding and decoding equipment.
 - 2. Within 5 days after a user subscribes to a live broadcast program, the disseminator shall notify the board of the user's identity and of the serial number of each decoder installed at the user's premises.
 - 3. Disseminators of live broadcasts shall not:
 - (a) Use any subcarrier or sideband frequency to transmit audio signals;
 - (b) Use more than 2 decoders in series with a single receiver, or permit parallel connections among more than 2 decoders.
- (Adopted: 7/87. Amended: 12/88.)

21.080 Procedures of users.

- 1. A user may not use information included in a live broadcast to determine winners of and payoffs on wagers accepted at the user's race book, sports pool, or gambling game, unless the user receives the live broadcast from the disseminator approved to disseminate the live broadcast.
 - 2. Each user shall post at its establishment an explanation of any discrepancies between numbers used at the track and those used at the user's establishment to identify entrants.
- (Adopted: 7/87. Amended: 10/92.)

21.090 Records and reports.

1. Each user who uses information included in a live broadcast to determine winners of and payoffs on wagers accepted at the user's race book, sports pool, or gambling game, and each disseminator shall record simultaneously with the occurrence of the recorded event, for each live broadcast race:

- (a) The time according to the digital display described in Regulation 21.060(5) at which:
 - (1) Post time, as defined in Regulation 22.010(6)(a) occurs; and
 - (2) The race begins;
- (b) The names and official finishing position, announced by the track, of each entrant finishing in a position for which a payoff is made or offered; and
- (c) The official payoff results announced in the live broadcast.

2. Every user shall record, for each track at which live broadcast races are run, the amount of money accepted by the user as wagers on the races run at that track.

3. Each disseminator shall record the audio and video portions of each live broadcast it transmits to users. Disseminators shall use such recording equipment and procedures as the chairman may approve in advance, and shall preserve the recordings for at least 20 days after the occurrence of the events recorded unless the chairman orders preservation for a different length of time. Using such equipment as may be approved in advance by the chairman, each disseminator shall incorporate in the video portion of the recordings the date and, to the nearest second, the correct time of day at which the live broadcast is transmitted to users. The disseminator shall take reasonable steps to prevent discrepancies between the track time displayed as part of the live broadcast and the time generated as part of the recording, and shall maintain and, upon the chairman's request, submit records describing each such discrepancy in detail.

4. Disseminators and users shall create and keep the records required by this or any other regulation in such manner and using such forms as the chairman may require or approve. The chairman may require disseminators and users to create and keep such other records and reports as are necessary or convenient for strict regulation of disseminators and users. At the chairman's request, disseminators and users shall submit the records specified in subsection 1. Users shall submit the records specified in subsection 2 at least every 30 days in a manner prescribed by the chairman. Users and disseminators shall preserve the records required by this regulation (other than the recordings referred to in subsection 3) for at least 5 years after they are made. The board may at any time examine and copy the records of any user or disseminator.

(Adopted: 7/87.)

21.100 Board monitoring and authority.

1. A disseminator who distributes live broadcasts to users shall provide and maintain at board offices a post-licensing, investigative and security verification fund in such amount as the chairman may require.

2. The board may review the security of the live broadcast transmission and reception at any time and in any manner, including, but not limited to:

- (a) Verifying the security codes used to authorize decoders;
- (b) Requesting security code changes;
- (c) Verifying the number and locations of decoders; and
- (d) Verifying the serial number of any decoder.

3. Each disseminator shall provide and maintain, at their expense, such equipment as may be required to decode signals of live broadcasts and permit reception at the state gaming control board offices in Las Vegas, Nevada.

4. The chairman may order the immediate termination of any live broadcast transmission or reception without prior notice or hearing whenever he has reason to believe the disseminator or user has violated any regulation of the Nevada gaming commission, and each disseminator and user shall be considered to have consented to such authority of the chairman as a condition to the approval of the live broadcast. After any such termination, the disseminator or user may, within 3 days of the order, request a hearing before the commission to review the chairman's order. The decision of the commission is binding and conclusive on the affected disseminator and users.

(Adopted: 7/87.)

21.110 Live broadcast supervision. Each disseminator:

1. Shall maintain an office in Nevada and designate a key employee to supervise and be responsible for the day-to-day operations of the dissemination of the live broadcasts; and

2. By using communications equipment other than equipment used to transmit live broadcasts:

- (a) Shall be able at all times to contact each user immediately; and

(b) Shall be available at all times to respond immediately to user requests for confirmation of information included in the live broadcasts.
(Adopted: 7/87.)

End – Regulation 21